

Docket No. 199,799

Respondent appeals from a Preliminary Order dated June 2, 1995, by which Administrative Law Judge Nelsonna Potts Barnes granted claimant's request for temporary total disability and medical benefits.

In it's application for review, the respondent asks the Appeals Board to address the following issues:

- (1) Whether claimant's alleged injury occurred each and every day through March, 1995;
- (2) Whether claimant provided appropriate notice pursuant to K.S.A. 44-520;
- (3) Whether medical bills incurred should be paid by respondent as authorized medical.

After reviewing the record, the Appeals Board finds and concludes:

- (1) Two of the issues raised by respondent are subject to review on appeal: whether claimant suffered accidental injury arising out of and in the course of employment; and whether claimant gave notice as required by K.S.A. 44-520. The third issue, whether the medical expenses were reasonably necessary for the injury, is not subject to review on an appeal from a preliminary order. K.S.A. 44-534a
- (2) The Appeals Board finds that the Administrative Law Judge should be affirmed.

The evidence establishes that claimant, who worked for respondent as a phlebotomist, started having low back symptoms while working in February, 1995.

Claimant testified she advised her supervisor of the problems and the supervisor gave her instructions on how to perform the work without hurting her back. Claimant sought medical treatment at the emergency room and testified that she related the condition to her work. Claimant continued to perform her regular duties through March 17, 1995. Respondent acknowledges notification of the low back symptoms but denies claimant attributed them to her job until March 23, 1995. The Appeals Board agrees with the finding by the Administrative Law Judge that claimant suffered repeated trauma from normal work duties beginning February 5, 1995, and continuing through March 18, 1995. The notice which respondent acknowledges it received as of March 23, 1995, therefore, satisfies the requirements of K.S.A. 44-520.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Order of Administrative Law Judge Nelsonna Potts Barnes, dated June 2, 1995, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Andrew E. Busch, Wichita, Kansas  
Edward D. Heath, Jr., Wichita, Kansas  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director